

In the Matter of PORTLAND LUMBER MILLS and LOCAL UNION 5-3,
INTERNATIONAL WOODWORKERS OF AMERICA, CIO

Case No. 19-R-1323.—Decided June 10, 1944

Messrs. Robert L. Sabine, G. A. Robertson, and Lee Hubbard, of Portland, Oreg., for the Company.

Messrs. Geo. Brown and A. F. Hartung, of Portland, Oreg., for the CIO.

Mr. Geo. E. Flood, of Seattle, Wash., for the AFL.

Mr. William Strong, of counsel to the Board.

DECISION
AND
DIRECTION OF ELECTION

STATEMENT OF THE CASE

Upon a petition duly filed by Local Union 5-3, International Woodworkers of America, CIO, herein called the C. I. O., alleging that a question affecting commerce had arisen concerning the representation of employees of Portland Lumber Mills, Portland, Oregon, herein called the Company, the National Labor Relations Board provided for an appropriate hearing upon due notice before Joseph D. Holmes, Trial Examiner. Said hearing was held at Portland, Oregon, on May 10, 1944. The Company, the C. I. O., and Local 2880, Lumber and Sawmill Workers Union, United Brotherhood of Carpenters & Joiners of America, AFL, herein called the AFL, appeared and participated. All parties were afforded full opportunity to be heard, to examine and cross-examine witnesses, and to introduce evidence bearing on the issues. The Trial Examiner's rulings made at the hearing are free from prejudicial error and are hereby affirmed. All parties were afforded an opportunity to file briefs with the Board. The AFL has moved for dismissal of the petition. For reasons stated more fully below, the motion is denied. The AFL desires to argue orally before the Board at Washington, D. C. The request is denied.

56 N. L. R. B., No. 237.

Upon the entire record in the case, the Board makes the following:

FINDINGS OF FACT

I. THE BUSINESS OF THE COMPANY

Portland Lumber Mills, an Oregon corporation, is engaged in the manufacture and sale of lumber and lumber products at Portland, Oregon, where it maintains its mills.

All of the Company's raw material, consisting mainly of logs, is obtained within the State of Oregon. The annual output of finished lumber by the Company is valued at \$1,600,000. Seventy-five percent of this total is shipped outside the State of Oregon.

We find that the Company is engaged in commerce within the meaning of the National Labor Relations Act.

II. THE ORGANIZATIONS INVOLVED

Local Union 5-3, International Woodworkers of America, affiliated with the Congress of Industrial Organizations, is a labor organization admitting to membership employees of the Company.

Local 2880, Lumber and Sawmill Workers Union, United Brotherhood of Carpenters & Joiners of America, affiliated with the American Federation of Labor, is a labor organization admitting to membership employees of the Company.

III. THE QUESTION CONCERNING REPRESENTATION

The Company has refused to grant recognition to the C. I. O. as the exclusive bargaining representative of certain of the Company's employees. The Company and the AFL assert that an existing contract constitutes a bar to this proceeding.

Since May 3, 1940, the AFL and the Company have been parties to an automatically renewable annual contract covering the employees whom the C. I. O. seeks to represent. The contract, as amended, contains a clause requiring that notice of desired change or termination be given at least 30 days prior to the annual anniversary date of the contract. Under that provision, the contract would have become automatically renewed on May 3, 1944, for another year unless appropriate notice was given by April 3, 1944. The C. I. O. has never directly notified the Company of its representation claims. However, on April 1, 1944, the C. I. O. filed with the Regional Office a petition for investigation and certification of representatives under Section 9 (c) of the Act.

While we are of the opinion that direct notification to an employer by a labor organization of its representation claim within the period provided by an existing contract covering the employees in question would be highly desirable, we are also of the opinion that the timely filing of a petition under Section 9 of the Act is sufficient to prevent an automatic renewal of an existing contract from constituting a bar to our investigation and certification of representatives.¹ We find, therefore, that the contract in this case does not constitute a bar to this proceeding.

A statement of a Board agent, introduced into evidence at the hearing, indicates that the C. I. O. represents a substantial number of employees in the unit hereinafter found appropriate.²

We find that a question affecting commerce has arisen concerning the representation of employees of the Company, within the meaning of Section 9 (c) and Section 2 (6) and (7) of the Act.

IV. THE APPROPRIATE UNIT

We find, in substantial agreement with a stipulation of all the parties, that all production, maintenance and construction employees of the Company at its Portland Mills; excluding office and clerical employees and all supervisory employees with authority to hire, promote, discharge, discipline, or otherwise effect changes in the status of employees, or effectively recommend such action, constitute a unit appropriate for the purposes of collective bargaining within the meaning of Section 9 (b) of the Act.

V. THE DETERMINATION OF REPRESENTATIVES

We shall direct that the question concerning representation which has arisen be resolved by an election by secret ballot among the employees in the appropriate unit who were employed during the payroll period immediately preceding the date of the Direction of Election herein, subject to the limitations and additions set forth in the Direction.

DIRECTION OF ELECTION

By virtue of and pursuant to the power vested in the National Labor Relations Board by Section 9 (c) of the National Labor Relations Act, and pursuant to Article III, Section 9, of National Labor Relations Board Rules and Regulations—Series 3, it is hereby

¹ See *Matter of Mill B, Inc., et al*, 40 N. L. R. B. 346.

² The Field Examiner reported that the C. I. O. submitted 47 designations, 46 of which bore the names of persons appearing on the Company's pay roll of April 3, 1944, which contained the names of 101 employees in the appropriate unit.

The AFL points to its contract as evidencing its interest in the employees involved.

DIRECTED that, as part of the investigation to ascertain representatives for the purposes of collective bargaining with Portland Lumber Mills, Portland, Oregon, an election by secret ballot shall be conducted as early as possible, but not later than thirty (30) days from the date of this Direction, under the direction and supervision of the Regional Director for the Nineteenth Region, acting in this matter as agent for the National Labor Relations Board, and subject to Article III, Sections 10 and 11, of said Rules and Regulations, among the employees in the unit found appropriate in Section IV, above, who were employed during the pay-roll period immediately preceding the date of this Direction, including employees who did not work during the said pay-roll period because they were ill or, on vacation or temporarily laid off, and including employees in the armed forces of the United States who present themselves in person at the polls, but excluding any who have since quit or been discharged for cause and have not been rehired or reinstated prior to the date of the election, to determine whether they desire to be represented by Local Union 5-3, International Woodworkers of America, affiliated with the Congress of Industrial Organizations, or by Local 2880, Lumber and Sawmill Workers Union, United Brotherhood of Carpenters & Joiners of America, affiliated with the American Federation of Labor, for the purposes of collective bargaining, or by neither.

MR. GERARD D. REILLY took no part in the consideration of the above Decision and Direction of Election.